

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1921 of 1994

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MUNICIPAL CORPORATION OF AHMEDABAD

Versus

PUNJAB NATIONAL BANK, DUDHESHWAR ROAD BRANCH,A'BAD.

Appearance:

MR MG NAGARKAR for MR SN SHELAT for Petitioner

MR AC GANDHI for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 13/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. This is an appeal by the Municipal Corporation of Ahmedabad under section 411 of the Bombay provincial Municipal Corporations Act, 1949, challenging the

judgement and order of the lower court passed in an appeal under section 406 of the said Act.

2. The only point urged in the present appeal by learned counsel for the appellant, and the only point which arises in the present matter according to the learned counsel for the respective parties, is a question of what is popularly known as "tax on tax".

3. This controversy arises from a fact situation where the tenant, who is under an obligation by the contract of letting to bear the taxes in respect of the property rented out by him, in the discharge of his obligation to pay taxes to the landlord, discharges this obligation by paying such tax directly to the Municipal Corporation. In this fact situation the question was and is as to whether this component of tax paid by the tenant can be included in the "annual letting value" as defined under section 2(1-A) of the said Act. This controversy has been decided by a Full Bench of this court (to which one of us was a party), in the case of Municipal Corporation of Ahmedabad Vs. Canara Bank, reported at 1993(1) GLH page 180. This decision of the Full Bench is also confirmed by the Supreme Court in the case reported at 1996(7) SCC page 298.

4. In the premises aforesaid, the appellant herein would be justified in including the element of tax in the annual letting value in respect of the premises in question, even if such tax has been paid directly by the tenant to the Municipal Corporation.

5. This appeal is, therefore, allowed with no order as to costs.

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